

1391ngvaldes.txt

25 left.

42

1 Q. And what happened to the rest of the servers  
2 that you had mentioned?

3 A. They were put in a storage -- a storage area  
4 and later I believe it might have been disposed of  
5 through asset disposal.

6 Q. So the -- so we have 50 servers --  
7 approximately 50 servers that are in Ashburn. The  
8 remaining set of servers were put into storage. where  
9 was that storage facility?

10 A. In Ashburn.

11 Q. But it was a different storage facility than  
12 where the 50 servers went to?

13 A. Yes.

14 Q. And what happened to those other servers, not  
15 the 50, but the other ones that were disposed of?

16 A. I don't know.

17 Q. And whose decision was it to dispose of it?

18 A. Gosh, I don't know.

19 Q. Do you know when they were disposed of?

20 A. ■ would have to say sometime in 2004.

21 Q. Do you know if there was information relating  
22 to Parus on any of those servers that were disposed  
23 of?

24 A. I don't know.

25 Q. would you have any idea what information

1391ngvaldes.txt  
14 THE WITNESS: okay. As part of the process  
15 of identifying all the systems that we wanted to  
16 either send up to Ashburn or in order to decommission,  
17 we would -- if a server was determined that it was no  
18 longer needed, the data would be archived off the tape  
19 and then the system would be turned off and shipped up  
20 to Ashburn.

21 Does that -- is that what you're looking for?

22 BY MS. MURCH

23 Q. That helps. But what other -- when you say  
24 it was no longer needed, how did you determine if it  
25 was no longer needed, that server?

1

70

1       A. There were consolidation efforts made to be  
2 able to house multiple databases on one server as  
3 opposed to on separate servers.

4 Q. And do you know if any information on the 50  
5 servers relates to Parus or would there be any  
6 information on the 50 servers?

7 A. I don't know.

8 Q. How would there -- is there any way to find  
9 out whether there's information on those 50 servers  
10 that relate to Parus?

11           A.     well, I don't know. searches -- a search  
12 could be made, which we've attempted and have had no  
13 luck.

14 Q. okay. we'll get into that.

15 But how about for the other -- the non-50  
16 servers, you know, we don't know the number exactly

1391ngvaldes.txt

17 so I'll just call them the non-50 servers, how would  
18 you know or find out if there's any information  
19 related to Parus on those non-50 servers?

20 A. I don't know.

21 Q. Could searches be run on those?

22 A. Not that I'm aware of. I don't believe those  
23 servers are in Ashburn anymore.

24 Q. Okay. When did they leave Ashburn?

25 A. I believe it was sometime in 2004.

□

71

1 Q. And whose decision was it to have these  
2 non-50 servers leave Ashburn?

3 A. I don't know.

4 Q. Do you know any grounds for why those non-50  
5 servers left Ashburn?

6 A. They were part of asset disposal from what I  
7 understand.

8 Q. And what do you mean by asset disposal?

9 A. When a system is end of life or is no longer  
10 needed, they -- I believe they used to have a process  
11 for asset disposal where they would take the hardware  
12 or any assets off the books and dispose of it.

13 Q. Now, when you say take it off the books, does  
14 that mean they physically still exist but they're not  
15 listed on the company's books and records or does it  
16 mean that the actual physical assets are destroyed or  
17 sold?

18 A. I don't know.

19 Q. Okay. So do you know if the non-50 servers

1391ngvaldes.txt

10 identified.

11 we were asked about any other location where  
12 mail might be kept. Tampa Mail was identified.

13 And then we were asked if there were any web  
14 servers that might house any data, and Intramedia was  
15 identified.

16 Q. Now, you have 350. You used date range and  
17 you used the name of the tapes that kind of cut back  
18 that number. so how many tapes were left after you  
19 did that?

20 MS. MURDOCK: objection. That's vague.

21 350 what?

22 MS. MURCH: Tapes.

23 MS. MURDOCK: I'm not sure that that's what  
24 he testified, but go ahead.

25 BY MS. MURCH:

D

79

1 Q. well, feel free to correct me if I misstated.

2 A. well, my understanding I think the first date  
3 range we pulled like 3-, 400 tapes or so and then I  
4 believe that date range was changed and the number of  
5 tapes changed. And I don't remember if it happened  
6 twice or three times, but every time the number would  
7 change.

8 Q. Okay. And what was the final number of  
9 tapes, then, that were pulled in connection with the  
10 Parus litigation?

11 A. I don't remember what that number was.

12 Q. okay. And, again, is there any way -- not  
Page 71

1391ngvaldes.txt

13 again, I didn't ask the question.

14 But is there any way of figuring out the  
15 tapes that you pulled, whether they came from the 50  
16 servers or the non-50 servers?

17 A. The tapes that I had identified would be part  
18 of the 50 servers.

19 Q. So then those tapes that you pulled should be  
20 readable --

21 A. Actually, let me restate that because I keep  
22 forgetting about the Exchange servers. The Exchange  
23 servers were decommissioned. so the tapes identified  
24 included part of the 50 and part of the non-50 that  
25 were sent up because the Exchange servers were

80

1 decommissioned.

2 Q. okay. So all backup tapes regarding e-mail,  
3 Exchange e-mails, were part of the non-50 that you  
4 pulled?

5 A. Not all.

6 Q. Okay.

7 A. Tampa Mail is a server that still exists --  
8 well, actually, the data on it has been migrated to  
9 another server. But relative to this, Tampa Mail  
10 still exists.

11 Q. okay.

12 A. So it is part of the 50.

13 Q. okay. So which one of these systems that you  
14 checked are not part of the 50?

15 A. The Exchange servers.

1391ngvaldes.txt

16 Q. And, again, why was it determined that the  
17 Exchange servers would be decommissioned?

18 A. we migrated all of our user -- all of our  
19 mail to WorldCom's systems, unified Messaging.

20 Q. So if these Exchange systems were  
21 decommissioned because they were migrated, would there  
22 be any way to search for backup tapes regarding the  
23 Exchange e-mail data on worldcom's system?

24 A. ■ don't know.

25 Q. who would know?

0

81

1 A. Maybe Joe Falleur.

2 Q. I'm sorry, who?

3 A. Maybe Joe Falleur, Joseph Falleur.

4 Q. uh-huh. And what's his title?

5 A. ■ don't know.

6 Q. Do you work with him at all?

7 A. From time to time.

8 Q. So other than the Exchange servers that were  
9 decommissioned, Tampa Data, Tampa Mail, Intramedia  
10 were part of the 50 servers?

11 A. Yes.

12 Q. And those should be readable or retrievable?

13 A. what should be retrievable, the tapes?

14 Q. The backup tapes, yes.

15 A. All the backup tapes are still available.

16 Q. I'm sorry, readable where you wouldn't have  
17 to go out and do a special process to read those  
18 tapes?

1391ngvaldes.txt

19       A.    ■ would have to say at this time no because  
20 we've migrated the data from those servers to newer,  
21 better servers and have pretty much discontinued using  
22 the format of tape.

23       Q.    okay. So while the 50 still exist, those 50  
24 servers, the information has been migrated to  
25 different servers?

□

82

1       A.    In many cases, yes.

2           Going back to what you were asking about  
3 whether the tapes are still readable, we may be able  
4 to take tapes from, let's just say, Tampa Data and  
5 read them on one of the other systems that's out  
6 there.

7       Q.    How difficult is that?

8       A.    The difficult part would be the space, space  
9 limitations. For instance, Tampa Data is a very large  
10 data repository. ■ don't know of any other server we  
11 have that's left out of the 50 or so that has the  
12 space to be able to restore that kind of data.

13      Q.    And how large is Tampa Data?

14      A.    Tampa Data ■ think is 700 gigabytes. It has  
15 at one point been over a terabyte, but I think the  
16 last number I had heard six months ago was about 700  
17 gigs.

18      Q.    so let me -- ■ just kind of want to solidify  
19 the chronology regarding the 50 and the non-50.

20      A.    okay.

21      Q.    I'm a little confused. so the 50 -- at one  
Page 74

1391ngvaldes.txt

1 A. It was nightly.

2 Q. And was it an incremental backup or a  
3 full-system backup?

4 A. For the e-mail systems it was full system.

5 Q. okay. Does Intermedia have any diagrams of  
6 its network configuration?

7 A. ■ know we had, yes.

8 Q. Do you know if there are any anymore -- or  
9 where they would be?

10 A. NO.

11 Q. okay. Do you know if those were ever  
12 provided to Debtors' counsel?

13 A. NO.

14 Q. Did Intermedia have any diagrams of its  
15 e-mail architecture?

16 A. ■ don't know.

17 Q. Did Intermedia's file servers include user  
18 data folders called home directories?

19 A. Yes.

20 Q. Let me ask how these home directors worked.

21 If ■ wanted to find, you know, John Smith's user data  
22 on the home directory, how difficult would that be?

23 A. It would not be difficult.

24 Q. About how long would that take do you think?

25 A. we would have to know the first name, middle

1 initial, and last name of the person.

2 Q. Did anybody ever ask you to do that, to look  
3 for specific names?

1391ngvaldes.txt

106

1 stored on a yearly tape that was also on a quarterly  
2 tape or a monthly tape?

3 A. That's correct.

4 Q. so it would be cumulative?

5 A. No, it would not be cumulative.

6 Q. NO? okay.

7 A. It would only be what was on the system at  
8 the time of the backup.

9 Q. Okay. So it's possible that something you  
10 had on a yearly tape would not be on a monthly tape?

11 A. correct.

12 MS. MURCH: Do you need a break? Let's take  
13 a break.

14 (whereupon, a ten-minute recess was  
15 taken.)

16 BY MS. MURCH:

17 Q. Mr. valdes, we're back on the record.

18 A. Yes, ma'am.

19 Q. And you're still under oath.

20 You had mentioned that there were PST files  
21 with respect to ■ believe it was the Tampa Mail  
22 system?

23 A. Yes.

24 Q. were there any other PST files?

25 A. It's possible that there were PST files on

□

107

1 Tampa Data.

page 96

A 03143

1391ngvaldes.txt

□

116

1 on Tampa Mail?

2 A. We wouldn't know about the user's hard drive.

3 We would only know if the file existed on Tampa Mail.

4 Q. And did Intermedia have any policy with  
5 respect to retention of PST files on users' hard  
6 drives?

7 A. No. Not that I'm aware of, no.

8 Q. So it's possible, then, that a PST file on a  
9 person's hard drive could be lost forever?

10 A. I don't know. It's possible.

11 Q. If the — let me ask you this: Let's say an  
12 employee who had a PST file on his or her hard drive  
13 was terminated or quit, what happens to that hard  
14 drive?

15 A. That system, that hard drive, that system,  
16 would be turned back in to either their manager and  
17 sent back in to the PC Support Team. And depending on  
18 the user, they would either — they would either hold  
19 that system, provide the files to their manager, or do  
20 nothing with the system.

21 Q. Now, when you say hold the system, what do  
22 you mean?

23 A. They would hold onto that desktop until a  
24 later time, a month or two months, and then at that  
25 point they would recycle it, use it for someone else.

□

117

1391ngvaldes.txt

1 Q. okay. So is it three options, either hold it  
2 for an undetermined amount of time or they would take  
3 files off of the computer and provide it to managers  
4 or they would do nothing? Is that --

5 A. There might be one more option, and that was  
6 I recall that there were some instances where they  
7 would back up the entire user's system to a file  
8 server and retain that data for a period of time.

9 Q. And under what circumstances was that backup  
10 done?

11 A. It was based on the manager's request.

12 Q. And was that done on a case-by-case basis?

13 A. ■ believe so.

14 Q. was there any criteria for determining -- was  
15 there any criteria a manager would use for determining  
16 whether or not a user's individual hard drive should  
17 be backed up?

18 A. I don't know.

19 Q. And how long would that e-mail -- or that  
20 user's system be backed up for? Is there a standard  
21 period?

22 A. No, I don't -- I don't know if they had a  
23 standard or not. ■ think it might have had to do with  
24 space.

25 Q. okay. were hard drives -- where PST files

118

1 were located, were those ever erased or wiped out or  
2 cleansed?

3 A. ■ don't know.

1391ngvaldes.txt

10 A. I'm not familiar with the term.

11 Q. okay. Neither am I. ■ was hoping you could  
12 tell me.

13 In addition to storing documents on hard  
14 drives, did Intermedia employees have the ability to  
15 store documents on the server directly?

16 A. when you say "the server," what server?

17 Q. or an applicable server. so if it were like  
18 an Excel or a Power Point or whatever, it would be on  
19 a file server?

20 A. They could. They had the ability.

21 Q. Did many people use that?

22 A. They did.

23 Q. Is there any way to track who did that or  
24 when it was done?

25 A. No, only by the directory. If a directory

□

121

1 was requested, we created it.

2 Q. Did Intermedia actively use backup tapes for  
3 information retrieval?

4 A. Yes.

5 Q. And how was that done?

6 A. It was used for restoring systems whenever  
7 files or systems -- whenever they were requested.

8 Q. And how often was that?

9 A. Not too often. I would say we probably did  
10 one or two restores a week. It depended whether it  
11 was e-mail or data.

12 Q. what kind of backup tapes did Intermedia use?  
Page 109

1391ngvaldes.txt

19 unreadable when you had them?

20 A. It's hard to say. The tapes, we see them as  
21 going bad.

22 Q. okay. And were any tapes -- ■ believe it was  
23 110 backup tapes that you identified that we talked  
24 about -- or was it 105. It was 110 tapes that went to  
25 Kroll. were any of them that you know of damaged or

124

1 corrupted?

2 A. I don't know.

3 Q. Did Kroll ever call you or talk to you about  
4 any of these tapes directly?

5 A. NO.

6 Q. And how frequently -- what was the rotation  
7 schedule for backup tapes?

8 A. We had a six-week rotation.

9 Q. so that means every six weeks a tape would be  
10 overwritten, the data on the tape would be  
11 overwritten, is that --

12 A. In some cases, yes.

13 Q. How about in other cases?

14 A. well, some tapes would not be overwritten  
15 because they were pulled out of the rotation.

16 Q. And how many restores per tape?

17 A. Excuse me?

18 Q. How many restores? Is there a single backup  
19 on a tape, or is there multiple backup sets on a tape?

20 A. It could be both.

21 Q. And how would you determine?

Page 112

1391ngvaldes.txt

11 A. My understanding was because ■ was familiar  
12 with the tapes and the Intermedia systems.

13 Q. Would you say the person most familiar with  
14 the Intermedia tapes?

15 A. ■ believe so.

16 Q. Now let's talk about the substance of your  
17 affidavit. If you could look at Paragraph 2, and you  
18 say that you're in charge of all windows backup tapes  
19 for Intermedia.

20 And we may have covered this, so I apologize,  
21 but how many backup tapes did that encompass for the  
22 period at issue?

23 A. well, for the period at issue --

24 Q. which was for clarification on the record  
25 January 1, 2000 through December 31, 2002.

132

1 A. well, my understanding is the subset included  
2 about 483 servers -- or 483 backup tapes.

3 Q. And what was the date of the last Intermedia  
4 backup tape?

5 A. The last backup tape on there?

6 Q. NO.

7 A. Of this subset?

8 Q. NO. Of any Intermedia backup tape.

9 A. well, we are still performing backups of some  
10 of the remaining systems.

11 Q. Of the remaining Intermedia servers?

12 A. Yes, yes.

13 Q. Now, what do you mean when you say you were

1391ngvaldes.txt  
14 in charge of all windows backup tapes?  
15 A. My team was responsible for those backups.  
16 Q. And how about when you said you were in  
17 charge of the two remaining active Intermedia servers?  
18 A. That my team was responsible for Tampa Mail  
19 and Tampa Data.  
20 where do you see the two?  
21 MS. MURDOCK: (Indicating.)  
22 BY MS. MURCH:  
23 Q. so the two remaining servers that are  
24 referenced in this affidavit are Tampa Mail and  
25 Tampa Data?

133

1 A. I'm trying to see where ■ had put two, the  
2 number two.  
3 Q. oh, I'm sorry. Go to Paragraph 2.  
4 A. okay.  
5 Q. It's in the second-to-last line right at the  
6 end: For Intermedia and the two remaining active  
7 Intermedia windows servers.  
8 A. okay.  
9 Q. And those servers were the Tampa Mail --  
10 A. Tampa Mail and Tampa Data.  
11 Q. Tampa Data. okay. And where are these two  
12 active servers located?  
13 A. Tampa.  
14 Q. And what types of servers are these? Are  
15 they e-mail --  
16 A. They're file servers, file servers that

1391ngvaldes.txt

19 Q. How about during the relevant time period?

20 So when you started decommissioning these servers,  
21 what is the approximate size of all of the equipment  
22 you would need to be able to now read?

23 A. Several racks' worth of equipment.

24 Q. Several racks like --

25 A. A rack is like the size of the door

145

1 (indicating) .

2 Q. okay. so that door is, what, probably --

3 A. Three-feet-by-seven-feet high, eight-feet  
4 high.

5 Q. And how many racks would you think?

6 A. ■ don't know, a half a dozen racks. ■ don't  
7 know.

8 Q. okay.

9 A. It depends on how much of the 110 tapes we  
10 would want to restore.

11 Q. okay. Now, did Intermedia -- I'm assuming at  
12 some point in time Intermedia did have the ability to  
13 search the data on the backup tapes that are  
14 referenced in your -- or, I'm sorry, the servers?

15 A. we didn't have the ability to search --  
16 search the data on the tapes. we could search for a  
17 file and identify the file and restore it and then  
18 search the file, but we would have to -- in order to  
19 search files, we would have to restore them.

20 Q. And that's just a common, routine practice --

21 A. Correct.

1391ngvaldes.txt

22 Q. -- whenever you're searching for files?  
23 A. Correct, on tape.  
24 Q. on tape. But the difference is here you  
25 don't have the equipment to restore the tape?

□

146

1 A. Correct.  
2 Q. Is that accurate?  
3 A. Correct.  
4 Q. okay. And at what point in time did  
5 Intermedia lose the ability to search -- or to restore  
6 that data? Is that when the servers were  
7 decommissioned?  
8 A. when servers are decommissioned, yes.  
9 Q. Let's talk about the decommissioning of the  
10 servers. Now, you had mentioned that Intermedia did  
11 not have a formal document retention policy but used,  
12 was it, Gartner policy?  
13 A. we used industry standards, just common  
14 practice.  
15 Q. And the industry standards were based on  
16 Gartner. Was there anyone else?  
17 A. It's -- Gartner is, like ■ said, a consortium  
18 of different companies and how they go about doing  
19 things.  
20 Q. But I'm just trying to get an idea of what  
21 the universe -- what in your mind is an industry  
22 standard.  
23 A. well, our industry standard is what we were  
24 following, which is a six-week rotation.

1391ngvaldes.txt

16 Q. By anyone at MCI?

17 MS. MURDOCK: It's privileged to the extent

18 it came from in-house counsel at MCI

19 You can testify to what else you did.

20 BY MS. MURCH:

21 Q. I guess my question is: was there any

22 nonlawyer who communicated to you about what you

23 should be searching, either -- or at MCI?

24 A. NO.

25 Q. Did you consult with anybody at MCI other

□

165

1 than the in-house lawyer about how to structure the  
2 search or how to run it?

3 A. NO.

4 Q. And that was basically your determination as  
5 to how to run the search?

6 A. Yes.

7 Q. Have any of the facts contained in your  
8 affidavit changed since you executed it on August 4th,  
9 2005?

10 A. The only thing ■ can say has changed is that  
11 the two remaining active Intermedia servers in  
12 question have been migrated to a newer system.

13 Q. And when did that happen?

14 A. I'd like to say at the beginning of this  
15 year.

16 Q. And what newer system is that?

17 A. Excuse me?

18 Q. what newer system is that?

Page 149

1391ngvaldes.txt

169

1 I probably had a few employees' backup -- a few  
2 employees' hard drives backed up.

3 Q. was there any record kept by Intermedia when  
4 an employee left or was terminated as to what was done  
5 with their computer hard drives?

6 So, for example, ■ believe you testified any  
7 number of things could happen. It could have been  
8 backed up, nothing was done, it could have been  
9 deleted. was there any record with respect to each  
10 person who was terminated or left Intermedia which one  
11 of those options had occurred?

12 A. Not that I'm aware of.

13 Q. would it have been good policy to do that do  
14 you think?

15 A. ■ don't know.

16 Q. was there a log of any personal computers  
17 that were turned in when a person left?

18 A. There may have been. ■ don't know.

19 Q. Do you know who would know?

20 A. NO.

21 Q. How many people at Intermedia had the  
22 authority to specifically reach out and direct that  
23 electronic documents be saved?

24 A. ■ would say every employee was empowered to  
25 be able to say that. If an employee was either

□

170

1 terminated or left, their management would have that

14 A. Meta data? I don't understand of meta data.

15 Q. what is meta data?

16 A. That's the part that I don't quite  
17 understand.

18 Q. okay. Do you know what meta data is?

19 A. I've heard of the term, but I'm not familiar  
20 with meta data in particular.

21 Q. okay. well, that's two of us, then.

22 ■ guess the question I have is: would the  
23 same information, for example, when you searched the  
24 two active servers as you mentioned sometime in July  
25 or August of 2005, would the information at that time

□

196

1 that you searched now be on the new HP server?

2 A. More than likely that data has changed over  
3 time.

4 Q. So we're not talking about identical  
5 replication of what was on the server at 2005 to what  
6 was on the HP server in 2006?

7 A. / can't say for certain, no.

8 Q. All right. Now, Mr. Valdes, when were you  
9 notified that you were required to begin or implement  
10 like a litigation hold? Do you know what a litigation  
11 hold is?

12 A. No, please explain.

13 Q. Okay. For the purpose of that term what ■  
14 mean is an instruction perhaps by someone at Stinson  
15 or an instruction by in-house counsel or an  
16 instruction basically by anybody saying we want you to

1391ngvaldes.txt  
17 hold or preserve all documents in connection with a  
18 certain party. We'll call that a litigation hold.  
19 Make sure you do not destroy any documents and that  
20 all documents are kind of frozen in time.

21 Have you ever done that?

22 A. Have I ever had to do that, or for this  
23 particular case?

24 Q. Have you ever had to do that?

25 A. we have had to do that in the past.

197

1 Q. okay. Did you do that for this particular  
2 case with respect to Parus?

3 A. NO.

4 Q. Do you know why not?

5 A. Wasn't -- first off, the data -- there was  
6 never data clearly identified as to what was to be  
7 kept or what not kept. We just followed our -- we  
8 continued to follow our standard procedures for  
9 backing up and purging of data.

10 Q. were you aware of any e-mails or notices sent  
11 by Mr. -- I believe it was David wachen, W-a-c-h-e-n,  
12 regarding a litigation hold as to Parus?

13 A. NO.

14 Q. Did you ever instruct anyone to retain or  
15 preserve documents relating to Parus?

16 A. No.

17 Q. Do you know if anyone else made those  
18 notices?

19 A. I don't know.

1391ngvaldes.txt  
20 Q. How about anybody on the MCI side?  
21 A. I don't know.  
22 Q. who -- was there anybody at Intermedia or MCI  
23 that you're aware of who was in charge of implementing  
24 litigation holds?  
25 A. No, I don't know.

□

198

1 Q. How about enforcing those litigation holds?  
2 A. They could have been enforced by any member  
3 of management if they were instructed to.  
4 Q. Now, you said you have done litigation holds  
5 in the past --  
6 A. Yes.  
7 Q. -- but not in connection with this matter?  
8 A. Yes.  
9 Q. can you kind of walk me through step by step  
10 what was done, how you received notice of the  
11 litigation hold and what you then, in turn, did?  
12 A. we would be instructed to not erase any tapes  
13 at all, not even in a rotation.  
14 Q. And how did that -- let me back up. How did  
15 that notification come to you? was it e-mail or a  
16 memo?  
17 A. Sometimes -- the one I'm even thinking about  
18 was actually a verbal from my management.  
19 Q. so please go ahead.  
20 A. verbal from my management.  
21 Q. And the next step in the process is you would  
22 get a notice, either verbal or written, saying don't

1391ngvaldes.txt  
23 delete anything, don't delete, don't rotate tapes?

24 A. Uh-huh.

25 Q. what then would you do? what was your next

199

1 step?

2 A. I would work with my managers or engineers  
3 directly to give the instruction that no tapes are to  
4 be recycled, and we would not recycle any tapes.

5 we would follow along with our continued  
6 six-week rotation, but after the six weeks those tapes  
7 would not be erased. we would just -- we would rotate  
8 in new tapes so that none would be erased.

9 Q. And you're talking about backup tapes?

10 A. Yes.

11 Q. Any other electronic documents or protocols  
12 that you would use besides no longer, you know,  
13 rotating those tapes?

14 A. For this particular one that I'm thinking of,  
15 no.

16 Q. Had you done anything else besides taking a  
17 tape out of rotation?

18 A. We have been asked by HR or security to back  
19 up someone's files in the past.

20 Q. would that be on a server or on their hard  
21 drive?

22 A. It would be both. Their hard drive -- in  
23 most cases we did not get involved with the hard  
24 drives, the desktops. we would only be related to the  
25 servers.

1391ngvaldes.txt

7 Q. And would you know or would there be any way  
8 to find out if these rogue servers had information  
9 related to Parus on them?

10 A. ■ don't know.

11 Q. And for the MCI servers, what's the name of  
12 the manufacturer of the drives for those?

13 A. The drives?

14 Q. I'm sorry, the servers.

15 A. It's a number of vendors, Dell, Compaq, HP,  
16 IBM.

17 Q. And how many servers do you think there are  
18 in total?

19 A. oh, gosh, I have heard of numbers of like  
20 4500 servers.

21 Q. And how about the time maybe, if you know,  
22 between 2000 and 2002, approximately how many servers?

23 A. That ■ don't know.

24 Q. And why are certain manufacturer's servers  
25 used? Is there any kind of rhyme or reason to that?

204

1 A. A department will buy a server whenever  
2 however they want.

3 Q. Let's talk about MCI's e-mail system. what  
4 kind of e-mail systems does MCI use?

5 A. As far as ■ know, they use Exchange and I  
6 think they're migrating over from POP.

7 Q. And when did they start migrating over to  
8 POP?

9 A. I don't know. To POP or from POP?  
Page 184

1391ngvaldes.txt

10 Q. I'm sorry. From POP?

11 A. I don't know.

12 Q. Did you have any involvement in that at all?

13 A. Only as an end user.

14 Q. Now, can you explain to me what the POP  
15 e-mail system is?

16 A. The way I understand POP e-mail is that it's  
17 more of a gateway. An e-mail comes in. It's stored  
18 there until you get it. Once you get it, it's gone  
19 from the system and it goes on.

20 Q. And when you say gone from the system, you  
21 mean gone from the server?

22 A. That's the way I understand it. I don't  
23 know.

24 Q. So is it fair to say a backup tape of a POP  
25 e-mail system may not have very many e-mails on it?

205

1 A. ■ don't know.

2 Q. okay.

3 A. I don't know.

4 Q. Do you know how the capture of a backup tape  
5 works with respect to a POP e-mail system?

6 A. I can only assume.

7 Q. okay. Have you ever worked on a POP e-mail  
8 system before?

9 A. I've been an end user of a POP e-mail system  
10 but not an administrator.

11 Q. okay. Do you know why there's some users at  
12 MCI using a POP e-mail system and some using an

1391ngvaldes.txt  
5 Q. okay. Your boss was still?

6 A. No -- well, Bill Novak and then later on  
7 Frank Ludlow.

8 Q. And Frank Ludlow, was he on the Intermedia  
9 side or the MCI side?

10 A. MCI side.

11 Q. whatever happened to still Novak? when did he  
12 leave?

13 A. He was part of a reduction ■ want to say  
14 early 2003.

15 Q. okay. And who was -- who was ultimately  
16 responsible at the Intermedia side to make sure  
17 Intermedia was in compliance with MCI's document  
18 retention policies?

19 A. well, ■ would have to say Frank was  
20 responsible for that.

21 Q. okay. But he was already on the MCI side,  
22 right?

23 A. Then it would have been me.

24 MS. MURCH: okay. You know what, I'm going  
25 to have maybe a little five-minute break.

235

1 THE WITNESS: okay.

2 (whereupon, a twenty-minute recess  
3 was taken.)

4 BY MS. MURCH:

5 Q. okay. we're back on the record again,  
6 Mr. Valdes, and you are still under oath.

7 okay. Let's turn to page -- we're still on

1391ngvaldes.txt

10 says: Just to recap our meeting today, I want to make  
11 sure that you understand that you are not to give  
12 authorization for tape rotation to any group. It will  
13 be necessary that each end user requesting tape  
14 rotation put their request in writing with all the  
15 necessary information we need in order to access RIMS  
16 role.

17 ■ think that must mean assess rather than  
18 access.

19 The e-mail needs to indicate the department  
20 making the request, the department's function, why  
21 they need tape rotations, what type of information on  
22 the tape, how often do they want the rotations, how  
23 many tapes, et cetera, as well as the other questions  
24 that Vicki referenced in her e-mail.

25 Did you ever make -- in your responsibilities

□

247

1 at MCI with respect to the windows backup tapes, did  
2 you ever formalize any request such as this in  
3 writing?

4 A. NO.

5 Q. Did you have to confer or consult with  
6 anybody about when tapes were rotated for the MCI  
7 windows backup tapes?

8 A. NO.

9 Q. so that was solely within your discretion?

10 A. Yes.

11 Q. Now, if you would flip to the prior page,  
12 which is 31816 of Exhibit 4, you'll see about halfway  
Page 223

1391ngvaldes.txt

13 down Draft Policy Re Tape Rotation.

14 Do you know if a formal policy was ever  
15 implemented?

16 A. when?

17 Q. From the time you joined -- well, this e-mail  
18 was in 2001, so any time after 2001?

19 A. I was not made aware of any of these RIM  
20 documents until sometime ■ would have to say 2004.

21 Q. Maybe the beginning, end, middle, do you  
22 know?

23 A. ■ don't remember.

24 Q. okay. Do you know when MCI began using  
25 backup tapes?

□

248

1 A. NO.

2 Q. Let's go to Page 31870. This is a Guide For  
3 New Acquisitions. That's what it's called.

4 Did you ever receive this document in  
5 connection with the MCI/Intermedia merger?

6 A. NO.

7 Q. Do you know if anyone else at Intermedia  
8 received this document?

9 A. No, I do not know.

10 Q. If you turn to the following page, 31871, at  
11 the top it says: while your records program is being  
12 evaluated by RIM, absolutely no records destruction of  
13 any kind can take place.

14 Did you ever receive that directive from ~~RIM~~

15 A. ■ was only -- ■ only received those  
Page 224

17 which would have been July/August 2005, were you still  
18 doing those metrics reports?

19 A. NO.

20 MS. MURDOCK: Let me object. That misstates  
21 his testimony as to when the searches were done.

22 BY MS. MURCH:

23 Q. okay. To clarify the record, when were the  
24 searches done that you performed?

25 MS. MURDOCK: Asked and answered.

260

1 THE WITNESS: Sometime in early 2005 I  
2 believe.

3 BY MS. MURCH:

4 Q. And so at that time were you still preparing  
5 metrics reports?

6 A. NO.

7 Q. when did you cease preparing metrics reports?

8 A. It would have to be sometime in 2003.

9 Q. Now, did Intermedia have the capability of  
10 restoring backup tapes in 2000?

11 A. Yes.

12 Q. How about 2001?

13 MS. MURDOCK: objection, asked and answered.

14 THE WITNESS: Yes.

15 BY MS. MURCH:

16 Q. 2002?

17 MS. MURDOCK: same objection.

18 THE WITNESS: Yes.

19 BY MS. MURCH:

1391ngvaldes.txt  
20 Q. And could you -- I'm sorry, could Intermedia  
21 have preserved that capability had it wanted to to  
22 restore those tapes?  
23 A. Yes.  
24 Q. And what would have been required to do so?  
25 A. we would just have had to have been given

261

1 instructions to do so.  
2 MS. MURCH: I don't have any further  
3 questions.  
4

5 CROSS-EXAMINATION  
6 BY MS. MURDOCK:  
7

8 Q. Mr. valdes, at the very beginning of the day  
9 today Ms. Murch asked you some questions about the  
10 number of times that you communicated with Mr. Ramsay  
11 or perhaps in-house counsel, and ■ believe you told  
12 her that there were a couple of times in addition to  
13 your declaration.

14 Do you recall giving Ms. Murch that testimony  
15 earlier today?

16 A. Yes.

17 Q. Is it possible that there were more  
18 communications than just a couple via telephone?

19 A. There were a few, yes.

20 Q. And generally what time frame were they in,  
21 the same time frame that you already described to  
22 Ms. Murch of 2005?

Robert A. Scher (RS 2910)  
 FOLEY & LARDNER LLP  
 90 Park Avenue  
 New York, NY 10016  
 Phone: (212) 682-7474  
 Fax: (212) 682-2329  
 email: rscher@foley.com

-and-

Mark L. Prager (*admitted pro hac vice*)  
 William J. McKenna (*admitted pro hac vice*)  
 Jill L. Murch (*admitted pro hac vice*)  
 Joanne Lee (*admitted pro hac vice*)  
 FOLEY & LARDNER LLP  
 321 N. Clark Street, Suite 2800  
 Chicago, IL 60610  
 Phone: (312) 832-4500  
 Fax: (312) 832-4700

*Attorneys for Claimant Parus Holdings, Inc.  
 Successor-By-Merger to EffectNet, Inc. and  
 EffectNet, LLC*

UNITED STATES BANKRUPTCY COURT  
 FOR THE SOUTHERN DISTRICT OF NEW YORK

---

In re:	)	CHAPTER 11
	)	Jointly Administered
WORLDCOM, INC., et al.,	)	
	)	
Debtors.	)	Case No. 02-13533 (AJG)
	)	

**DECLARATION OF ALISON CHUNG**

1. Alison Chung, being first duly sworn, hereby states under oath as follows:
2. I have personal knowledge of the facts stated in this Declaration. If called as a witness, I could testify competently as to each of the facts stated in this Declaration.
3. I am President of TeamWerks. I have held that position since TeamWerks was formed in 1997.
4. I obtained my Bachelor of Arts in Mathematics from Wellesley College, my Master of Arts in Mathematics from Stanford University, and my Master of Business

Exhibit K

Administration from the University of Chicago. I also completed the Harvard Business School Executive Program for Financial Strategies at Harvard University.

5. I have extensive experience in a variety of platforms and operating systems including mainframes, mini-computers and personal computers.

6. I have managed a broad variety of assignments including strategic information systems planning; client/server strategy, planning and implementation; analysis and development of automation strategies; assessment of procedures and controls in a data processing environment; design and implementation of user acceptance testing procedures; and design and implementation of litigation and practice support systems.

7. TeamWerks is a full-service technology consulting firm, founded in Chicago in 1997. TeamWerks' business is providing full service technology consulting to clients on "e-commerce" issues. TeamWerks offers its clients its expertise in configuring computer hardware and software, designing and maintaining web sites and networks, working with databases, developing custom applications, and computer forensic investigations.

8. TeamWerks' staff members have over eighteen years of experience in the design and implementation of client/server and Internet/intranet application development, web site design and development, LAN/WAN design and implementation, electronic mail messaging systems, Internet security, and computer forensics.

9. Computer servers can house various types of electronic data, including electronic mail ("email"), documents, and other computer applications which access electronic information on a company's network.

10. There can also be several types of servers, including email servers, file servers, and print servers.

11. Once a computer server is dismantled, unless the hard drive was retained, the only way to access information previously contained on that server (at a particular point in time) is through the use of backup tapes created for that server.

12. When information that exists on a particular server is saved onto a backup tape, only the information that is on the server at the time the backup tape is created is actually stored on that backup tape. In other words, backup tapes are “snapshots” in time of the information contained on a particular server at a given time.

13. The way in which a server stores information on its hard drive(s) depends upon the operating system and application software used on the server.

14. A POP3 email server (“POP3 Email Server”) does not store POP3 emails indefinitely. Rather, a POP3 Email Server only stores undelivered POP3 emails that are waiting to be delivered to a user’s hard drive.

15. Once a POP3 email is delivered to the user’s computer, the POP3 email is not stored on the POP3 server nor is a copy of the POP3 email saved on the POP3 Email Server. Instead, the POP3 email is routed directly to and written on the hard-drive of the individual user’s computer.

16. When a backup tape is created from a POP3 Email Server, only those POP3 emails that remained undelivered at the time the backup was created will be stored on the backup tape. If the POP3 Email Server had no undelivered POP3 emails at the time the backup tape was created, there will be no POP3 emails on the backup tape.

17. Backup tapes are typically “rotated,” a process by which the information that currently exists on a backup tape is written over and replaced with new information collected from the server on a future date.

18. Once the information and data is written over on a backup tape as a result of the rotation (the "Prior Backup Tape Information"), the Prior Backup Tape Information is permanently deleted and is irretrievable.

19. The use of home directories on computer servers enables an IT professional to identify where a particular user's documents have been stored on servers. That information enables the IT professional to identify the backup tapes which were used to back up those home directories.

FURTHER AFFIANT SAYETH NOT.

STATE OF MASSACHUSETTS  
COUNTY OF NORFOLK

Signed this 25th day of January, 2007.

Alison Chung

Alison Chung

 Barbara M. Colonna  
Notary Public

BARBARA M. COLONNA  
MY COMMISSION EXPIRES  
APRIL 4, 2008

Page 13

1 doing architecture and design as an Engineer II  
2 and III.

3 As a Senior Engineer you're responsible for  
4 architecting systems and services as well as leading  
5 technical teams.

6 Q. And have you given any presentations or  
7 seminars or training regarding document retention?  
8 And when I say documents, I mean electronic or hard  
9 copy?

10 A. No.

11 Q. Have you written or authored any articles or  
12 publications?

13 A. No.

14 Q. Mr. Miller, I'm handing you what's been  
15 marked as -- it's Exhibit 1. And this is a letter  
16 from Allison Murdock of the Stinson Morrison firm  
17 dated July 31st, 2006 to Mr. Kevin Smith of Kelley,  
18 Drye & Warren.

19 And if you look, there's some indented  
20 paragraphs. Your name is in the second indented  
21 paragraph. If you could read that and let me know  
22 when you're done.

23 A. I'm done.

24 Q. Is this an accurate description of your job  
25 function during the period 2000 to 2002?

Page 14

1 A. Yes.

2 Q. And just for clarification, were you employed  
3 by WorldCom or MCI?

4 A. WorldCom at this time.

5 Q. Did MCI have its own separate employees from  
6 2000 to --

7 A. Not to my knowledge.

8 Q. By virtue of being employed by WorldCom,  
9 would you be familiar with MCI at this time, from  
10 2000 to 2002?

11 MR. IBA: I'm going to object. The question  
12 is vague and ambiguous.

13 You can answer if you understand it.

14 THE WITNESS: I'm not sure I can answer that.

15 BY MS. MURCH:

16 Q. I can rephrase that.

17 Was MCI to your knowledge part of the  
18 corporate tree of WorldCom?

19 A. Could you define what corporate tree means in  
20 your mind?

21 Q. Affiliate, subsidiary, related entity. If  
22 you don't know, that's okay.

23 A. I do not know.

24 Q. Okay. Did you -- during the period of 2000  
25 through 2002 did you have any responsibilities with

Sound Deposition Services  
888-297-6863

A.03170  
cae3c1cd-0528-4208-88af-48507b76d3a0

Page 94

1 proxy area, for both POP and IMAP proxy.

2 Q. Anything else?

3 A. That's all I can remember.

4 Q. Any changes based on your reading of these  
5 industry papers to retention of e-mail?

6 A. No.

7 Q. How about backup tapes?

8 A. No.

9 Q. Were you ever alerted at any point from 2000  
10 to the present time to place a -- to preserve any  
11 documents or electronically stored documents related  
12 to Parus?

13 A. No.

14 Q. Did you ever receive notice of a litigation  
15 hold related to Parus? Do you know what a litigation  
16 hold is?

17 A. Yes.

18 Q. Okay. Can you tell me in your own words what  
19 you understand a litigation hold to be?

20 A. What I have been told a litigation hold is --

21 MR. IBA: Hold on. Is this something that  
22 you've learned from attorneys?

23 THE WITNESS: No.

24 MR. IBA: Okay.

25

Sound Deposition Services  
888-297-6863

A.03171  
cae3c1cd-0528-4208-88af-48507b76d3a0

Page 95

1 BY MS. MURCH:

2 Q. Go ahead.

3 A. My team implements litigation holds based on  
4 a request by one of several organizations within the  
5 company to save all current e-mail on a system for a  
6 specific user and also make copies of those e-mails as  
7 they enter or leave the account in the future.

8 Q. And did you ever implement a litigation hold  
9 with respect to Parus?

10 A. I did not. My team may have but not for  
11 Parus that I know of.

12 Q. Do you have any idea how long MCI retains its  
13 backup tapes for the services your department is in  
14 charge of?

15 A. Currently for the Exchange and Unified  
16 Messaging platforms we were given an order on  
17 July 21st, 2002 to retain all backup tapes currently  
18 available and from that point forward indefinitely.  
19 We are still following those orders.

20 Q. And where did these orders come from?

21 A. The order that I saw came from  
22 Richard Breedan, the court monitor.

23 Q. Who is he?

24 A. The court monitor established by the  
25 bankruptcy court.

Sound Deposition Services  
888-297-6863

A.03172  
cae3c1cd-0528-4208-88af-48507b7ed3a0

<p style="text-align: center;">Page 6</p> <p>1 A. Okay.      2 Q. Did you meet with anyone in preparation of      3 your deposition today?      4 A. Yes, I did.      5 Q. Who did you meet with?      6 A. Teresa and Don Ramsay.      7 Q. And did you meet with them at the same time?      8 A. Yes.      9 Q. And when was that?      10 A. Yesterday.      11 Q. And where did you meet with them?      12 A. 203 LaSalle.      13 Q. And for how long?      14 A. From 9:00 to 3:00.      15 Q. Was anyone else present?      16 A. No.      17 Q. What was the purpose of the meeting?      18 A. Review pre-deposition.      19 Q. Did you review any documents in preparation      20 of your deposition?      21 A. One, my resume' from the November '05.      22 Q. I'm sure that was an easy one to go through.      23 Any other documents you reviewed yesterday?      24 A. No.      25 Q. Did you bring any documents with you today?</p>	<p style="text-align: center;">Page 8</p> <p>1 BY MS. MURCH:      2 Q. Who was the e-mail from?      3 A. Jeff Jacobs.      4 Q. And look was Jeff Jacobs?      5 A. Internal MCI lawyer.      6 Q. Did you ever receive any further      7 correspondence from Mr. Jacobs?      8 A. I can't -- I don't recall. It's possible.      9 Q. Mr. LaMantia, do you have a copy of your      10 resume' with you here today?      11 A. No, I don't.      12 MS. MURCH: I'd like to get a copy of that.      13 MS. CLARK: Send a document request.      14 MS. MURCH: We will.      15 BY MS. MURCH:      16 Q. Do you know anything about the nature      17 between -- the dispute between Parus and the Debtors?      18 A. No.      19 Q. Was the litigation ever described to you by      20 anyone?      21 A. No.      22 Q. Do you know how much money is involved in the      23 litigation?      24 A. No.      25 Q. Do you know what the Unified Communications</p>
<p style="text-align: center;">Page 7</p> <p>1 A. No.      2 Q. Other than preparing for your deposition,      3 have you ever discussed anything related to Parus or      4 Parus' claims?      5 A. Not to my knowledge.      6 Q. Have you reviewed any pleadings or deposition      7 transcripts or court transcripts in connection with      8 this case?      9 A. No.      10 Q. Do you know who Parus or EffectNet is?      11 A. I've heard the name, but other than that, no.      12 Q. When did you learn of Parus or when did you      13 hear the name?      14 A. I believe it was sometime mid 2005, but I      15 can't be specific of the date.      16 Q. And how did you learn of Parus?      17 A. I was requested to look for data for certain      18 people with regards to -- the title of the e-mail was,      19 to my recollection, it was Parus Holding was the title      20 of the e-mail, a litigation case.      21 Q. Do you remember the contents of the e-mail?      22 A. Not off the top of my head --      23 MS. CLARK: Objection. If the e-mail was      24 from legal counsel, I'm going to object as to      25 attorney-client privilege.</p>	<p style="text-align: center;">Page 9</p> <p>1 Agreement is or the UC Agreement?      2 A. Nope.      3 Q. How about the Master Agreement for Software      4 Licenses or MASL?      5 A. No, sorry.      6 Q. That's fine. If you don't know, you don't      7 know.      8 Who at the Debtors have you spoken with about      9 Parus or Parus' claim?      10 A. Debtors?      11 Q. MCI or Intermedia?      12 A. No one.      13 Q. Do you know who Intermedia is?      14 A. Yes.      15 Q. And what's your understanding of Intermedia?      16 A. Intermedia was purchased by WorldCom at some      17 point.      18 Q. Anything else you know about Intermedia?      19 A. No.      20 Q. Do you know what kind of products or services      21 they provided?      22 A. Telecommunications products.      23 Q. Anything more specifically?      24 A. (Indicating.)      25 THE COURT REPORTER: Was that a "no"?</p>

3 (Pages 6 to 9)

Sound Deposition Services **Exhibit M**  
888-297-6863

d6103dc2-b695-44d4-bf13-054c0b903c50

A 03173

<p style="text-align: right;">Page 46</p> <p>1 servers?</p> <p>2 A. They would go through what's called an ADR 3 process, and I don't know what ADR stands for, but it 4 would be -- basically go -- you know, go through the 5 process and then the company would do what they needed 6 to.</p> <p>7 It was sent to a centralized location, and 8 they would sell it or do whatever they did with it. I 9 don't know. We followed the ADR process.</p> <p>10 Q. So once the servers were decommissioned, did 11 you or anyone from your department track what happened 12 to them?</p> <p>13 A. No.</p> <p>14 Q. Do you know who would have knowledge of what 15 happened to those servers after they were 16 decommissioned?</p> <p>17 A. The folks that run the ADR.</p> <p>18 Q. Do you have any idea what location they were 19 sent off to?</p> <p>20 A. No.</p> <p>21 Q. Let's talk about -- can you explain to me 22 step by step when a server is decommissioned what 23 happens to the data that's on that server? I know you 24 mentioned it was consolidated, but what are the 25 specific steps that --</p>	<p style="text-align: right;">Page 48</p> <p>1 A. Hopefully.</p> <p>2 Q. The time that backup tape is run on the 3 server that's supposed to be decommissioned, does that 4 backup tape include all of the data that was ever on 5 the server or --</p> <p>6 A. No, just at the present time.</p> <p>7 Q. Do you know what was done with the backup 8 tape for decommissioned servers?</p> <p>9 A. They would be put back in a rotation with 10 whatever other backups for the other servers in that 11 same geographical location.</p> <p>12 Q. Do you know what the backup tape rotation 13 policy was from 2000 to 2002?</p> <p>14 A. It varied by geographic location.</p> <p>15 Q. So if you had a, say, for example, a file 16 server in Tulsa, it might have a different backup tape 17 rotation for --</p> <p>18 A. Than one in Virginia, yes.</p> <p>19 Q. And who was the -- who determined the 20 rotation periods for those file servers?</p> <p>21 A. The area managers.</p> <p>22 Q. And how many were there? Do you know?</p> <p>23 A. That would be an estimate, too.</p> <p>24 Q. Okay. Ten, a hundred, a thousand? If you 25 don't know, that's okay.</p>
<p style="text-align: right;">Page 47</p> <p>1 A. I can't -- I can only generalize because I 2 didn't do that.</p> <p>3 Q. Okay. That's fine. Based on your knowledge, 4 what was done?</p> <p>5 A. Based on my knowledge, that data would be 6 moved from that server we're trying to decommission to 7 another server within that same geographical area.</p> <p>8 Q. Would any data get lost during that --</p> <p>9 A. There's always that possibility.</p> <p>10 Q. And was there anything done to prevent the 11 loss of that data?</p> <p>12 A. Sure. Part of the process would be to ensure 13 you have a backup of that complete server before you 14 decommissioned it.</p> <p>15 Q. And would the backup of the server, would that 16 entail, like a backup tape or --</p> <p>17 A. Yes.</p> <p>18 Q. Now, let me try to understand backup tapes a 19 little bit. If you're decommissioning a server and 20 before you decommission it you run a backup tape, what 21 kind of information would be on that backup tape for 22 that server?</p> <p>23 A. Hopefully the data that was on the server 24 would be on the backup tape.</p> <p>25 Q. All of it?</p>	<p style="text-align: right;">Page 49</p> <p>1 A. Yeah, I don't. It's less than 20.</p> <p>2 Q. Do you know if there was a formalized written 3 policy by MCI from 2000 to 2002 about the rotation of 4 tapes?</p> <p>5 A. Not to my knowledge.</p> <p>6 Q. Okay. Is there anything else you did with 7 respect to file or print servers? We talked about -- 8 I'm sorry, reports. We talked about availability 9 reports, decommission reports.</p> <p>10 You know what, let me back up.</p> <p>11 Those decommission reports, do you know if 12 those still exist or how long they were retained?</p> <p>13 A. I don't know that.</p> <p>14 Q. Any other reports that you received during 15 2000 to 2002 regarding file or print servers?</p> <p>16 A. Not off the top of my head, no.</p> <p>17 Q. You also mentioned you were in charge of 18 during this time period domains, and this is -- 19 Exhibit 1A was along the lines of what you meant when 20 you said domains?</p> <p>21 A. Along the lines, but it was different at that 22 period than it is in this picture. This is current.</p> <p>23 Q. And back then do you recall if they had 24 child -- was it child domains?</p> <p>25 A. There was child domains, but I don't know the</p>

13 (Pages 46 to 49)

Sound Deposition Services  
888-297-6863

d6103dc2-b695-44d4-bf13-054c0b903c50

A 03174

Page 54	Page 56
1        Okay. Mr. LaMantia, did you ever give any 2 presentations or seminars about your responsibilities 3 whether in MCI or outside of MCI? 4        A. Absolutely not. 5        Q. And how about have you ever written anything 6 on your responsibilities or IT or -- 7        A. My resume'. 8        Q. Okay. Mr. LaMantia, I'm going to show you 9 what I've marked as Exhibit 1 and it's a July 31st, 10 2006 letter from Allison Murdoch to Kevin Smith at 11 Kelley, Drye & Warren and I'm going to ask you to turn 12 to the second page. 13        On the top of the second page Allison Murdoch 14 mentions your name and says during 2000 to 2002 you 15 served in WorldCom, Inc.'s Enterprise Field Services 16 managing its desktops and active data, assisted in 17 search of desktops, shared drives and desktop backups. 18        Is this description accurate? 19        A. On the latter part -- 20        MS. CLARK: Do you know what she's talking 21 about in that letter? 22        THE WITNESS: Well, I'm just based on this 23 information here. 24        MS. CLARK: Okay. 25        THE WITNESS: At some point in 2002 there's a	1        Q. So in 2000 to 2002 you did not manage the 2 desktops? 3        A. From -- to the best of my knowledge, during 4 2000 to the beginning of 2002, no, I did not manage 5 the desktops. I managed the file and print servers at 6 that point. 7        At some point in early 2002, I did manage the 8 desktops to the best of my recollection. 9        Q. Do you know between 2000 to 2002 who was in 10 charge of the desktops? 11        A. Joe, I'll think of his name here in a minute. 12 I can't think of his name off the top of my head, but 13 he was based out of Carey, North Carolina. 14        Q. Carey, North Carolina? 15        A. Right. He was a peer of mine. 16        Q. Is he still with -- 17        A. No. 18        Q. Do you know where he is now? 19        A. No idea. 20        Q. Any idea when he left? 21        A. No idea on that either. 22        Q. Now, this paragraph also says that you 23 managed active data from 2000 to 2002. Is that 24 accurate? 25        A. Where does it state that at?
Page 55	Page 57
1        possibility I could have done this. I don't recall. 2 I don't think I had those responsibilities before 3 then. 4 BY MS. MURCH: 5        Q. Which responsibilities are you referring to? 6        MS. CLARK: I don't think he understands the 7 letter. He's never seen it before, and I think he's 8 reading this as everything listed there is something 9 he -- a job performance responsibility he had in 2000 10 to 2002. 11        THE WITNESS: Correct. 12        MS. CLARK: That's how he's reading the 13 letter. 14        MS. MURCH: Okay. Well, we're working on 15 clarifying that. 16 BY MS. MURCH: 17        Q. So explain to me what is not accurate about 18 this paragraph I've read to you? 19        A. During 2000 to 2002 I believe my job title at 20 that time was Enterprise Services, not 21 Enterprise Field Services. 22        At some point in 2002, yes, I did become -- 23 or to my best of my ability per my resume' I did take 24 back the desktops. So I'm -- I don't know, you know, 25 if this is accurate or not.	1        Q. The second line: Managing exec desktops and 2 active data. 3        A. I think that should read active directory. 4 I'm not sure what active data is referring to. 5        Q. Okay. We didn't either. 6        A. Yeah. 7        Q. What's an active directory, then? 8        A. It goes back to the domains in the picture 9 (indicating), the all-encompassing over the domains. 10 That would make -- that would be right for that time 11 frame. 12        Q. Now, it says you assisted in the search of 13 desktops, shared drives and desktop backups. Any idea 14 what that's referring to? 15        A. At that time frame, no, because I don't 16 believe I did it at that time frame, at least until 17 the latter part -- or the beginning parts of 2002. 18        So in 2002 I believe I did take the desktops, 19 and I was involved in data harvesting of the desktops 20 or information on the desktops. 21        Q. Did you do any searches of desktops, shared 22 drives or desktop backups in connection with this case 23 with Parus? 24        A. I know I was sent an e-mail with some names 25 to do some searches with, which I passed on to my

Page 66	Page 68
<p>1 about?</p> <p>2 THE WITNESS: That's -- yeah, that's pretty</p> <p>3 much a standard for -- from ever since I've been with</p> <p>4 all these companies.</p> <p>5 BY MS. MURCH:</p> <p>6 Q. And how is it determined if a user had a</p> <p>7 space where he or she could back up?</p> <p>8 A. That would have to be -- they, again, would</p> <p>9 open a ticket with the Help Desk and request that</p> <p>10 space.</p> <p>11 Q. Was anyone automatically given that space?</p> <p>12 Were any users, for example, based on their level in</p> <p>13 the company -- if I were the CEO of WorldCom or I were</p> <p>14 a VP, would I automatically be given that space?</p> <p>15 MS. CLARK: What time period are you asking</p> <p>16 about?</p> <p>17 MS. MURCH: 2000-2002.</p> <p>18 THE WITNESS: No, because those were handled</p> <p>19 in a different way for backups for the executives.</p> <p>20 BY MS. MURCH:</p> <p>21 Q. And how were the backups for executives</p> <p>22 handled?</p> <p>23 A. It was their choice if they wanted to be</p> <p>24 backed up or not, and I believe this is the time</p> <p>25 frame. I can't be sure when we put these systems in</p>	<p>1 Q. So what kind of things were in place to back</p> <p>2 up directors' and officers' information?</p> <p>3 A. The only thing I knew about was the disaster</p> <p>4 recovery, and that was solely due to if they lost</p> <p>5 their hard drives on their laptops, that we could</p> <p>6 rebuild their machine quickly.</p> <p>7 Q. And were there disaster recovery tapes for</p> <p>8 these folks, like backup tapes or --</p> <p>9 A. From the Legato servers? From -- I don't</p> <p>10 know that. We'd have to ask the person who managed</p> <p>11 the Legato servers if they were being backed up.</p> <p>12 Q. Okay. So just so I'm understanding, Legato</p> <p>13 was a type of server or a type of software?</p> <p>14 A. Legato, there was -- some amount of servers</p> <p>15 out in the field used the Connected software on the</p> <p>16 desktop. That software would connect back to that</p> <p>17 server and make sure the data from the PC was put onto</p> <p>18 the server.</p> <p>19 Q. And how does Legato fit in with that?</p> <p>20 A. Legato is just -- that was the name of it, of</p> <p>21 the product.</p> <p>22 Q. Oh, of the process?</p> <p>23 A. Of the product, Legato Connected.</p> <p>24 Q. Now, Legato Connected would take information</p> <p>25 from a computer's user and put it on a server?</p>
Page 67	Page 69
<p>1 place.</p> <p>2 We had a disaster recovery system called</p> <p>3 Legato Connected, and it was back -- the people that</p> <p>4 chose to be on it, it was the directors and above that</p> <p>5 had that option that backed them up on a daily basis.</p> <p>6 Q. Everybody below a director, were they backed</p> <p>7 up?</p> <p>8 A. Absolutely not.</p> <p>9 Q. No. Who was determined -- how was it</p> <p>10 determined which users were backed up?</p> <p>11 A. Using --</p> <p>12 Q. Legato?</p> <p>13 A. Using Legato. The criteria, one, they had to</p> <p>14 be a director or above and it was optional for them if</p> <p>15 they wanted it or not.</p> <p>16 Q. Any idea why it was optional?</p> <p>17 A. No.</p> <p>18 Q. For the period of 2000 to 2002 would there</p> <p>19 have been any lists of directors who said they wanted</p> <p>20 to be or were backed up by Legato?</p> <p>21 A. I'm sure there was. There was an account</p> <p>22 listings of that.</p> <p>23 Again, though, I'm not confident that these</p> <p>24 systems were in place at that time. I don't know</p> <p>25 exactly when we put the system in place.</p>	<p>1 A. Would back it up to a server.</p> <p>2 Q. And Legato was only used for directors and</p> <p>3 above?</p> <p>4 A. Again, and it was optional. So it wasn't</p> <p>5 everybody.</p> <p>6 Q. And were there backup tapes?</p> <p>7 A. I don't know that. Again, we have to ask the</p> <p>8 person who managed that.</p> <p>9 Q. Do you know who that was at all?</p> <p>10 A. Ken Croslin.</p> <p>11 Q. Were there any other servers for directors</p> <p>12 and officers that were used to help --</p> <p>13 A. There was one other system that was very</p> <p>14 similar. It was a Veritas system, and it was only</p> <p>15 used in Ashburn, Virginia once that became the</p> <p>16 corporate headquarters for Michael Cepallias and his</p> <p>17 direct reports. At the time he was the CEO of the</p> <p>18 company.</p> <p>19 Q. So only his information would be --</p> <p>20 A. His and his direct reports.</p> <p>21 Q. When you mean direct reports, the reports</p> <p>22 that went directly to him?</p> <p>23 A. No, his direct reports meaning a gentleman</p> <p>24 named Fred Briggs was direct report of his,</p> <p>25 Cynthia Andreatti (phonetic) was a direct report of</p>

18 (Pages 66 to 69)

Sound Deposition Services  
888-297-6863

d6103dc2-b695-44d4-bf13-054c0b903c50

A 03176

Page 70	Page 72
1 his. 2 I don't know all the others. People that 3 reported to Michael Cepallias at the time were backed 4 up to that Veritas backup system. 5 Both those systems have been replaced with a 6 newer backup system we use today. 7 Q. And do you know when that was? 8 A. I believe it came on line in 12-2005, the new 9 one. 10 Q. And where were those -- where are the other 11 servers? 12 A. I assume sitting where they were. I'm not 13 sure, though. We had some problems with the old 14 Legato ones. They started to fail on us. 15 Q. So just so, again, I'm clear, the Legato 16 servers for 2000-2002, do you know where those would 17 be? 18 A. I don't even know if that's the time period, 19 but if they were, again, I don't know where they are 20 today but Ken might know that. 21 Q. Okay. And how about the Veritas system? 22 A. The Veritas system I believe is still in 23 Ashburn, Virginia. It might be used for something 24 else by now, though. I don't know that. 25 Q. Okay. So I'm understanding this, we had a	1 those responsibilities? 2 A. First of all, it was to ensure that, again, 3 that the servers were up and running and that the 4 backups actually worked and that were sent back to the 5 server, the information was sent back. 6 Q. Do you know did you see decommission reports 7 for these systems, the Veritas and Legato? 8 A. I don't know that for a fact. I know we had 9 end-of-life issues with several of them, and we had to 10 rotate people off of several of them and put them on 11 others and rebuild these servers. We were having lots 12 of problems with these later on. 13 Q. Was there a list created as to which users 14 were on Legato? 15 A. It would have to be -- it depends on what 16 point in time there is, and I don't know if those were 17 saved or not. 18 Q. But there was a list at some point in time? 19 A. Sure, at some point in time. We knew what 20 counts were on which. 21 Q. What kind of servers were used, then, for the 22 folks that weren't on Legato or Veritas? 23 A. None. None, yeah. 24 Q. So how would their information be kept? 25 A. There was no backup policy for them, for a
Page 71	Page 73
1 couple of systems. We had the Legato. That was for 2 directors and above and was optional. We don't know 3 if there were backup tapes. And then we have the 4 Veritas system which had Michael Capel? 5 A. Cepallias. 6 Q. Cepallias and his direct reports, 7 Fred Briggs. Who were the other direct reports? 8 A. I don't know. Cindy Andreatti. 9 Q. Cindy? 10 MS. CLARK: For the record how do you spell 11 Cepallias? 12 THE WITNESS: I think it's C-e-p-a-l-l-i-a-s. 13 I'm pretty sure that's how it was. 14 BY MS. MURCH: 15 Q. Okay. And Cindy? 16 A. Andreatti, she was the head of sales. 17 Fred Briggs was the head of operations. 18 He had a head of marketing. He had a head of 19 finance. I don't recall all the names. 20 Q. And did you have any responsibility between 21 2000 to 2002 for the Legato or Veritas systems? 22 A. That's iffy. I don't know the time frames. 23 So at some point in time, yes, I was responsible for 24 those but I don't know specifically the dates I was. 25 Q. And how were you -- what was encompassed in	1 director or below. There was no policy, period. 2 If they did save something, it might have 3 been saved through a share if they had a share. 4 Q. And what's a share? 5 A. A share would be on a file server, meaning 6 you would have a possibly what's called a home share, 7 an H. Drive that you could access as a user if you 8 requested that space and you might be able -- you 9 know, you would put documents or whatever you wanted 10 to keep there as your backups. 11 Q. And would other people have access to that? 12 A. No. 13 Q. Would there be any backup tapes for 14 electronic documents for people who were not on Legato 15 or Veritas? 16 A. There was backup tapes for the file and print 17 all through the time period. They were rotated. So, 18 you know, yes, there was backup tapes. 19 Q. So I'm a user at MCI and I have a document, a 20 Word document, I have created and let's say it's -- I 21 don't know where I stored it and -- was there any 22 procedure to store that information on a server? 23 A. It's based on you as a user to determine how 24 important that is and where you store that 25 information. I can't answer that.

19 (Pages 70 to 73)

Sound Deposition Services  
888-297-6863

d6103dc2-b695-44d4-bf13-054c0b903c50

A 03177

Page 114	Page 116
<p>1 want to take a look at it, Ms. Clark.</p> <p>2 BY MS. MURCH:</p> <p>3 Q. Mr. LaMantia, we're going to shift gears a 4 little bit today and talk about whether -- about 5 litigation holds.</p> <p>6 Do you know what a litigation hold is?</p> <p>7 A. No.</p> <p>8 Q. Let me try and describe that for you. That 9 would be, for example, if MCI or the Debtor were aware 10 of litigation or should have known of litigation, they 11 would place a hold or require documents to -- or 12 prevent documents from being destroyed, they would 13 require that they specifically be maintained, kind of 14 akin to what happened I think when you mentioned there 15 was a bankruptcy court order do not destroy documents.</p> <p>16 A. Okay.</p> <p>17 Q. Did you ever receive a litigation hold or an 18 instruction not to destroy documents or preserve 19 electronic records in any form ever during the period 20 of 2000 to 2005?</p> <p>21 A. The only one that I was aware of was getting 22 back to the servers, keeping the server backups, but 23 personally, no.</p> <p>24 Q. And when you mean the server backups, was 25 there any specific directive that said other than</p>	<p>1 active directory at all anywhere or describe it or --</p> <p>2 A. Active directory can be -- it's on --</p> <p>3 Microsoft's web page can give you an overview of 4 active directory and what it is.</p> <p>5 Q. Okay. And so if I were to look at 6 Microsoft's definition of active directory, that would 7 be synonymous with the term you're using here as 8 active directory?</p> <p>9 A. Correct.</p> <p>10 Q. Now, Mr. LaMantia, let's talk about searches 11 that either you or your designee conducted in 12 connection with the Parus litigation.</p> <p>13 A. Okay.</p> <p>14 Q. When did you -- when were you contacted 15 about -- when were you first contacted about Parus?</p> <p>16 A. I couldn't give you a specific date.</p> <p>17 Q. Was it 2004, 2005?</p> <p>18 A. I think it was 2005.</p> <p>19 Q. And who contacted you?</p> <p>20 A. To the best of my knowledge, it was 21 Jeff Jacobs, one of our internal lawyers.</p> <p>22 Q. Do you recall how long that conversation was?</p> <p>23 A. It wasn't a conversation. It was through an 24 e-mail.</p> <p>25 Q. Do you know what he said in that e-mail?</p>
Page 115	Page 117
<p>1 out -- outside the ordinary course?</p> <p>2 A. Yes, it gave us a wider time frame to -- and 3 I'm not -- I don't know specific time frames, but it 4 was outside the normal course of backups that we had 5 to buy additional tapes to meet that.</p> <p>6 Q. And when was that done?</p> <p>7 A. I don't know the specific dates. It was 8 during the bankruptcy. That's all I can tell you.</p> <p>9 Q. And that was specifically related to the 10 bankruptcy?</p> <p>11 A. To my knowledge, yes.</p> <p>12 Q. Did you ever receive a litigation hold with 13 respect to Parus?</p> <p>14 A. No.</p> <p>15 Q. With an -- how about with respect to an 16 entity called EffectNet?</p> <p>17 A. No.</p> <p>18 Q. And how about with respect to an entity named 19 Webley?</p> <p>20 A. No.</p> <p>21 Q. And we talked about an Exhibit, I believe, 22 1A. This was the -- what did we call it again, 23 active?</p> <p>24 A. Active directory.</p> <p>25 Q. Now, is there any kind of summary of the</p>	<p>1 MS. CLARK: Objection, privilege, calls for 2 privileged information.</p> <p>3 MS. MURCH: Are you instructing the witness 4 not to answer?</p> <p>5 MS. CLARK: The information in the document 6 is protected by the attorney-client privilege and/or 7 work product. Yes, I am instructing the witness not 8 to answer.</p> <p>9 BY MS. MURCH:</p> <p>10 Q. Are you going to follow your counsel's 11 advice?</p> <p>12 A. Yes.</p> <p>13 MS. CLARK: Yes, you are.</p> <p>14 MS. MURCH: I think he can answer for 15 himself.</p> <p>16 THE WITNESS: Yes, I am.</p> <p>17 BY MS. MURCH:</p> <p>18 Q. What steps did you take, Mr. LaMantia, after 19 you received that e-mail?</p> <p>20 A. I passed that e-mail on to Ken Croslin to do 21 research.</p> <p>22 Q. And what kind of research did you ask him to 23 do?</p> <p>24 A. To look and see if we had any -- had any of 25 those people that were currently being backed up using</p>

30 (Pages 114 to 117)

Sound Deposition Services  
888-297-6863

d6103dc2-b695-44d4-bf13-054c0b903c50

A 03178

<p style="text-align: right;">Page 122</p> <p>1 Q. What's your opinion as to Mr. Croslin?</p> <p>2 MS. CLARK: As to what? Objection,</p> <p>3 ambiguous. Opinion as to what?</p> <p>4 BY MS. MURCH:</p> <p>5 Q. His work.</p> <p>6 A. His work is top notch.</p> <p>7 Q. Would you consider him reliable?</p> <p>8 A. Absolutely.</p> <p>9 Q. Would you consider him thorough?</p> <p>10 A. Yes.</p> <p>11 Q. And so -- I'm sorry. I forgot. So there</p> <p>12 were -- the search results were found, there were</p> <p>13 subsequent e-mails, and you don't recall what was done</p> <p>14 after that?</p> <p>15 A. No.</p> <p>16 Q. If you were to run the search -- would there</p> <p>17 have been any way you would have run it?</p> <p>18 A. No.</p> <p>19 Q. Would you have known how to run the search?</p> <p>20 A. No.</p> <p>21 Q. Do you know on what systems the search was</p> <p>22 run?</p> <p>23 A. To my knowledge it was run on the Legato</p> <p>24 backup disaster recovery systems.</p> <p>25 Q. Was that the only thing to your knowledge?</p>	<p style="text-align: right;">Page 124</p> <p>1 Q. And when you see the word desktop, searches</p> <p>2 of desktops, does that mean I would go into your</p> <p>3 office and just start searching on your desktop?</p> <p>4 A. No, not unless LPP/Jeff Jacobs specifically</p> <p>5 requested that. That would be a current employee that</p> <p>6 we did that to.</p> <p>7 Q. So --</p> <p>8 A. So the answer to your question is yes, as</p> <p>9 long as we had legal LPP's guidance to do that. They</p> <p>10 set the appointment, and we would go to their desktop.</p> <p>11 Q. Do you know if that was done with respect to</p> <p>12 searches for Parus?</p> <p>13 A. I don't know that.</p> <p>14 Q. Do you think Jeff -- I'm sorry, Ken Croslin</p> <p>15 would know?</p> <p>16 A. Possibly, yes.</p> <p>17 Q. Would anybody else know if this was done?</p> <p>18 A. No, not between Jeff, Ken or myself.</p> <p>19 Q. And can you tell me any other specifics about</p> <p>20 the manner in which these searches were run?</p> <p>21 A. No.</p> <p>22 Q. Do you know if whoever was running these</p> <p>23 searches, whether it was Mr. Croslin or someone else,</p> <p>24 did they encounter any kind of obstacles or problems?</p> <p>25 A. Specific to the Parus Holding case?</p>
<p style="text-align: right;">Page 123</p> <p>1 A. I remember being requested to at some point</p> <p>2 that we look on shares at some point, too, in time.</p> <p>3 Q. Do you know if that was done?</p> <p>4 A. I know it was done, but I don't know the</p> <p>5 results of that.</p> <p>6 Q. Do you know approximately when that was done?</p> <p>7 A. In a similar time frame.</p> <p>8 Q. I think we said about 2005?</p> <p>9 A. (Indicating.)</p> <p>10 THE COURT REPORTER: Can you say "yes" or</p> <p>11 "no"?</p> <p>12 THE WITNESS: Yes.</p> <p>13 BY MS. MURCH:</p> <p>14 Q. If I direct you back to Exhibit 1, which was</p> <p>15 the letter to Ms. Murdock, on the second page is a</p> <p>16 paragraph we talked about earlier. It says: Assisted</p> <p>17 in search of desktops, shared drives, and desktop</p> <p>18 backups.</p> <p>19 Do you know if Mr. Croslin searched desktop</p> <p>20 backups?</p> <p>21 A. Desktop backups would have been -- well, it</p> <p>22 could have been. This is, again, depending who the</p> <p>23 person was, the desktop backup could have been -- when</p> <p>24 I see the word desktop backup, that refers to the</p> <p>25 disaster recovery system to me. Okay.</p>	<p style="text-align: right;">Page 125</p> <p>1 Q. Yes.</p> <p>2 A. I don't know.</p> <p>3 Q. Did you or anyone under your supervision or</p> <p>4 control make any images of hard drives in connection</p> <p>5 with the Parus dispute?</p> <p>6 A. I did not. And I would say, again, if it was</p> <p>7 done, you're not making images, you're taking the</p> <p>8 Legato backup data, the disaster recovery data, and</p> <p>9 that is the full backup of the unit in its entirety.</p> <p>10 So if you're referring to an image, if that's what</p> <p>11 you're referring to --</p> <p>12 Q. Uh-huh.</p> <p>13 A. -- if that data was present for a custodian</p> <p>14 and he was on the list or she was on the list, then,</p> <p>15 yes, that data would have been captured through that</p> <p>16 manner.</p> <p>17 Q. And Legato was only used for directors and</p> <p>18 above?</p> <p>19 A. Correct.</p> <p>20 Q. Do you know how many directors and above used</p> <p>21 Legato or opted to use Legato?</p> <p>22 A. No.</p> <p>23 Q. Do you think it was a majority?</p> <p>24 A. During what time frame?</p> <p>25 Q. Well, let's shoot for 2000 to 2002.</p>

Page 126	Page 128
<p>1 A. No, I don't recall and I doubt if it was the 2 majority.</p> <p>3 Q. And why would someone -- strike that. 4 Do you have your documents backed up on 5 Legato?</p> <p>6 A. On the new system, yes.</p> <p>7 Q. For how long have you had that done? 8 A. At least three years I've been using it.</p> <p>9 Q. And prior to that --</p> <p>10 A. Or four years, three or four. When the 11 systems came on line, whenever that first day was, I 12 started using the system.</p> <p>13 Q. Okay. And how did you back up your documents 14 prior to Legato?</p> <p>15 A. I didn't.</p> <p>16 Q. Mr. LaMantia, I'm going to direct you back to 17 Exhibit 3, which is this document retention policy. 18 Have you ever seen this document before?</p> <p>19 A. Not in hard copy.</p> <p>20 Q. And where have you seen it?</p> <p>21 A. I've seen this document on the RIM website.</p> <p>22 Q. Have you ever read this document on the RIM 23 website?</p> <p>24 A. Completely, no.</p> <p>25 Q. And can you tell me what portions you have?</p>	<p>1 it's the users' responsibility to retain records. And 2 if those records are critical records, they need to 3 ensure the safety of those records.</p> <p>4 Q. And how did MCI ensure that was done?</p> <p>5 A. I don't think they could. I don't know how 6 they did that. Again, it was up to the user to ensure 7 that.</p> <p>8 Q. So -- and I'm just going to paraphrase, and 9 feel free to change or tell me otherwise, but your 10 responsibilities under Exhibit 3 were with respect to 11 the documents you created as a user and your 12 responsibilities to save those documents that you 13 made?</p> <p>14 A. Correct, unless there was a specific policy 15 given to me saying that policy was dictating to the 16 servers or whatever I supported, that would be a 17 different story. But containing this -- or pertaining 18 to this, yes, specific to me, only me.</p> <p>19 Q. Did you get any of these other policies?</p> <p>20 A. The one time to extend the time frames on our 21 systems for the backups.</p> <p>22 Q. And that was the bankruptcy order?</p> <p>23 A. That was the bankruptcy order.</p> <p>24 Q. Okay. Mr. LaMantia, if I could ask you to 25 please turn to Page 31870 of Exhibit 3.</p>
Page 127	Page 129
<p>1 A. No. Have and have not read, no, I can't tell 2 you that.</p> <p>3 Q. And when was the last time you consulted this 4 document on the RIM website?</p> <p>5 A. I frankly don't recall.</p> <p>6 Q. Do you recall what the purpose was for 7 consulting with this document?</p> <p>8 A. Records retention.</p> <p>9 Q. But anything more specifically? Were you 10 looking it up with respect to a particular policy?</p> <p>11 A. No. If I had questions usually regarding 12 records retention, that would be discussed with legal 13 directly, with Jeff Jacobs.</p> <p>14 Q. And what did you understand your 15 responsibilities to be under this Exhibit 3?</p> <p>16 A. Exhibit 3, Records Management Retention?</p> <p>17 Q. Yes.</p> <p>18 A. That would be my own responsibility to ensure 19 that I kept documents that I felt were -- fell under 20 these categories kept in a safe place.</p> <p>21 So it's only to me, the individual, and with 22 the people that were under me, to ensure they kept 23 their records accordingly.</p> <p>24 In the MCI time frame from -- or from -- in 25 the MCI time frame, and I'm not sure of the dates,</p>	<p>1 A. 31870?</p> <p>2 Q. Yes, sir.</p> <p>3 A. A Guide for New Acquisitions?</p> <p>4 Q. Yes. And for the record this is a document 5 entitled A Guide for New Acquisitions.</p> <p>6 Did you ever receive a copy of this document 7 that you recall from 2000 to 2004?</p> <p>8 A. I may have. I don't recall.</p> <p>9 Q. If I could get you to turn to the next page, 10 31871, and at the very first paragraph it says: While 11 your records program is being evaluated by RIM, 12 absolutely no records destruction of any kind can take 13 place.</p> <p>14 Do you know or were you asked to enforce this 15 policy?</p> <p>16 A. I don't know what time frame this -- this 17 would be specific to a time frame I would assume, 18 maybe through one of the mergers. I don't know.</p> <p>19 That's what it seems like to me because it 20 states "while going through the transition." So this 21 tells me we're going through yet another merger or 22 acquisition.</p> <p>23 Q. And that's -- my understanding is that this 24 would relate to documents during a merger scenario.</p> <p>25 Do you know if this policy was followed in connection</p>

33 (Pages 126 to 129)

Sound Deposition Services  
888-297-6863

d6103dc2-b695-44d4-bf13-054c0b903c50

A 03180

<p style="text-align: right;">Page 26</p> <p>1 excuse me.</p> <p>2 Q. So if I, for example, were a customer of 3 MCI, would I have my own IMAP account?</p> <p>4 A. No, it would be related to business.</p> <p>5 Q. I'm not sure I follow.</p> <p>6 A. It would be an account that was used for a 7 specific business purpose. So an outside customer 8 would communicate using that functional account.</p> <p>9 Q. Could you give me an example?</p> <p>10 A. Let's say we had a service, and customers 11 communicated with us for information about that 12 service.</p> <p>13 Q. Oh. Could it be, for example, if you had 14 a web site and it said for help e-mail this e-mail 15 account?</p> <p>16 A. Exactly.</p> <p>17 Q. Okay. Where does MCI Mail fit into 18 unified messaging if at all? Are you familiar with 19 MCI Mail?</p> <p>20 A. I know what MCI Mail was, but I never had 21 any direct access to -- well, excuse me. I wasn't 22 involved in supporting MCI Mail.</p> <p>23 Q. Do you know if that was part of the 24 unified messaging?</p> <p>25 A. It's not.</p>	<p style="text-align: right;">Page 28</p> <p>1 administration were on a different e-mail system?</p> <p>2 A. Mainly for calendaring reasons.</p> <p>3 Q. When you saw calendaring reasons, Exchange 4 has a program where you can -- you have a calendar 5 and you can put dates in and reminders?</p> <p>6 A. Yes, ma'am.</p> <p>7 Q. I'm going to hand you Exhibit 1 which I 8 know your counsel is all very familiar with. It's a 9 July 31st, 2006, letter to -- from Allison Murdock 10 to Kevin Smith of Kelley Drye &amp; Warren. If you see 11 kind of down near the bottom, you'll see your name 12 on the first page.</p> <p>13 Do you see that, Mr. Falleur?</p> <p>14 A. (Nodding head.)</p> <p>15 Q. It says during 2000 to 2002 you served as 16 WorldCom, Inc.'s team lead for messaging group 17 relating to relaying and unified messaging. You 18 assisted in search of e-mail backup and relay log. 19 Is that description accurate?</p> <p>20 A. Yes.</p> <p>21 Q. And during that time period, were you 22 employed by WorldCom, Inc., or MCI?</p> <p>23 A. I'm not sure when we were officially MCI. 24 We merged with MCI in '99 to my best recollection, 25 and then when I was an employee of, officially an</p>
<p style="text-align: right;">Page 27</p> <p>1 Q. Do you know whose department that would 2 have fallen under?</p> <p>3 A. When MCI Mail was being -- was still in 4 production, that person's name was Chris Crisman 5 (phonetic).</p> <p>6 Q. Do you know if he is still with WorldCom 7 or MCI or Verizon?</p> <p>8 A. Yes.</p> <p>9 Q. Do you know when MCI Mail was phased out?</p> <p>10 A. I can't remember. I'm sorry.</p> <p>11 Q. That's okay. It's not a test of your 12 memory.</p> <p>13 And why was Exchange not included in 14 unified messaging?</p> <p>15 A. It's a different application.</p> <p>16 Q. Do you know about how many users were on 17 Exchange during the relevant time period?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And how many would that be?</p> <p>20 A. Approximately 3,000.</p> <p>21 Q. What types of folks used the Exchange 22 system?</p> <p>23 A. Mainly executives and executive 24 administration.</p> <p>25 Q. Do you know why executives and executive</p>	<p style="text-align: right;">Page 29</p> <p>1 employee of MCI I'm not -- I don't know for sure.</p> <p>2 Q. But as an employee of WorldCom, would you 3 have knowledge or familiarity with MCI's e-mail 4 servers during this time or e-mail?</p> <p>5 A. No.</p> <p>6 Q. I guess --</p> <p>7 A. Please restate the question because that's 8 a little bit confusing.</p> <p>9 Q. My understanding is WorldCom had maybe 10 200 affiliates, subsidiaries, and the nature of the 11 dispute with Parus is specifically between 12 Intermedia and MCI/WorldCom Communications. I'm 13 just trying to figure out if you're the right person 14 to be talking to with respect to e-mail protocol for 15 MCI Communications -- I'm sorry, MCI/WorldCom 16 Communications.</p> <p>17 MR. IBA: And the question is what?</p> <p>18 MS. MURCH: Would he have knowledge about 19 MCI/WorldCom Communications during the relevant time 20 period.</p> <p>21 THE WITNESS: That's a really broad 22 question. Yes. Yes.</p> <p>23 BY MS. MURCH:</p> <p>24 Q. Okay. Would you have any responsibilities 25 with respect to MCI/WorldCom Communications during</p>

8 (Pages 26 to 29)

Sound Deposition Services  
888-297-6863

Exhibit N

<p style="text-align: right;">Page 130</p> <p>1 our bankruptcy.      2 Q. Good news. I'm skipping all these pages.      3 A. I do recall something about this document      4 in relationship to where we were supposed to ship      5 tapes when they -- when we needed to send them to      6 storage.      7 Q. Do you remember anything specifically?      8 A. No, just that where I needed to get the      9 tapes to get them taken care of.      10 Q. Okay. When you say taken care of, you      11 just mean --      12 A. Stored.      13 Q. -- stored?      14 A. Sorry, I should have said stored.      15 Q. Did you have any involvement with moving      16 e-mail accounts from Intermedia to MCI?      17 A. Probably. I don't remember specifically.      18 Q. Do you know of anybody else who might have      19 been involved?      20 A. The Intermedia people.      21 Q. Any names that you can think of?      22 A. Julio Valdez maybe.      23 Q. Are you familiar with the term litigation      24 hold?      25 A. I am now. Recently, yes.</p>	<p style="text-align: right;">Page 132</p> <p>1 could be at any time, what kind of software did you      2 use to search those relay logs?      3 MR. IBA: I think that was asked and      4 answered.      5 THE WITNESS: It's called CWYGI -- it's a      6 program that you can run on a Dos or a -- excuse me,      7 a Windows machine to mimic UNIX commands. UNIX      8 commands are more powerful in my opinion than a lot      9 of Windows commands or Windows -- yeah, command line      10 type commands you can run, and we basically set up      11 these scripts to search through the relay logs.      12 BY MS. MURCH:      13 Q. What was the software again?      14 A. I can't -- it's a freeware. You can      15 download it from the Internet. I want to say CY --      16 I'd just have to find out.      17 Q. Okay.      18 A. Okay.      19 Q. Was there any kind of software that you      20 used for other servers besides their relay servers,      21 like Exchange servers, to search on the servers?      22 MR. IBA: The question is vague and      23 ambiguous.      24 THE WITNESS: Could you repeat the      25 question?</p>
<p style="text-align: right;">Page 131</p> <p>1 Q. I won't ask you how you know.      2 What is your understanding of a litigation      3 hold?      4 A. Litigation hold is where we are requested      5 to retain all e-mail for a person for a infinite      6 amount of time or until requested to stop.      7 Q. And did you ever receive a litigation hold      8 request with respect to Parus?      9 A. I don't recall. Seriously, I don't      10 recall.      11 Q. How about any individuals that may have      12 been -- I know you testified that you don't -- you      13 think in terms of names --      14 A. Right.      15 Q. -- rather than actual overall projects.      16 Do you recall if there were any names      17 asked of you to put litigation holds on that may      18 have related to Parus?      19 A. During that time frame?      20 Q. No.      21 A. At any time?      22 Q. At any time.      23 A. I don't recall any holds.      24 Q. What kind of -- when you were searching      25 the relay -- when you searched relay logs, this</p>	<p style="text-align: right;">Page 133</p> <p>1 BY MS. MURCH:      2 Q. So you use this freeware software to      3 search I believe it was relay servers?      4 A. You have to understand how the data is      5 stored.      6 Q. Okay.      7 A. Okay. So in for the relay logs the data      8 is stored in an ASCII file format so it's easily      9 searchable, and the compressed files are not in      10 ASCII format, but you can use UNIX commands in      11 conjunction with the software to search through the      12 compressed files.      13 Q. And Exchange --      14 A. And on Exchange you have to -- there's not      15 a utility available that I know of to look through      16 an Exchange database that hasn't been restored to      17 the server.      18 Q. Okay. How would you look through the      19 database once it had been restored?      20 A. You can search for a user's account the      21 same way you would in a production system.      22 Q. How would that be?      23 A. Through the Exchange admin interface.      24 Q. What's the Exchange admin interface?      25 A. It's a module that you install to use with</p>

14011mccroslin.txt  
2 assisted with the deployment in 2002?

3 A. Yes.

4 Q. And when did you inherit the system from  
5 Mr. Carroll?

6 A. I believe in 2003.

7 Q. And when you say you inherited the  
8 system, what does that mean?

9 A. He moved -- changed positions and moved  
10 to Ashburn, Virginia to assist in the tier one  
11 executives in the Ashburn facility.

12 Q. And what's the tier one executives?

13 A. Michael Capellas, he supported him  
14 directly and Michael Capellas's support staff.

15 Q. And what were your responsibilities then  
16 after you inherited the Legato system?

17 A. I would maintain the backups and the  
18 accounts on the server and address any server  
19 failings or maintenance issues.

20 Q. And this started in 2003?

21 A. I believe so.

22 Q. And who handled the backups and the  
23 server issues prior to then?

24 A. The server backups?

25 Q. Well, you used the word backups. Are

24

1 there multiple kinds of backups?

2 A. I only deal with the desktop and laptop  
3 backups. My servers only back those devices up.

4 Q. Do you deal with any other types of

14011mcroslin.txt

16 Q. Did you ever communicate with anyone else  
17 at MCI other than counsel about these searches?

18 A. No.

19 Q. Did you ever draft any e-mails or reports  
20 or documents about these searches to anyone other  
21 than Mr. Jacobs or Mr. Ramsay?

22 A. No. My management would have been copied  
23 on the e-mails. I wouldn't have drafted anything  
24 specifically.

25 Q. And no other searches made by you in

102

1 connection with Parus?

2 A. Outside of backup, no.

3 Q. Mr. Croslin, are you aware of what a  
4 litigation hold is?

5 A. Not specifically.

6 Q. I'm going to tell you what my impression  
7 of a litigation hold is and then I'll ask you if you  
8 were ever asked to do so.

9 A litigation hold is a request made  
10 to preserve all documents going forward, whether it's  
11 electronic, whether it's e-mail, whether it's word,  
12 whatever you would have had responsibility for.

13 Were you ever asked to -- other  
14 than -- and I would consider, frankly, the backups  
15 that you did, litigation holds, because you're  
16 preserving those documents going forward.

17 Other than those names that you were  
18 given in February/March of 2006, did you ever get any  
Page 92